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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/500,460	02/09/2000	Steven M, Lloyd	TPP 30555A	2644

7590 11/15/2002

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EXAMINER

MULCAHY, PETER D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 11/15/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/500,460

Applicant(s)

LLOYD ET AL.

Examiner

Peter D. Mulcahy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14, 16, 25, 28 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) 31-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 25, 28 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 5) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 6) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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It should be noted that the first line of the remarks is not exactly correct. Applicants identify claims 14, 16, 25, 28 and 30 as being pending. The pending claims are in fact 14, 16, 25, 28, 30 and 31-36. Claims 31-36 are in fact pending but have been withdrawn by the Examiner as having been directed to an invention which is patentably distinct and non-elected.

Claim 16 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 16 is a dependent claim wherein it depends from claim 15. Claim 15 has been cancelled and as such, claim 16 depends from a cancelled claim. Correction is required.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14, 16, 25, 28 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hayes, U.S. Patent 6,210,764

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taken alone or in combination with Fukui et al., U.S. Patent 5,100,930 or Azuma et al., U.S. Patent 4,785,042.

The Hayes patent is seen as showing film compositions which are based on the instantly claimed olefinic base resin. The instantly claimed fillers are shown and identified as antiblocking agents at column 7 lines 60+. The specifically claimed antistatic agents and the claimed combination thereof is seen to be rendered prima facie obvious from this disclosure. Applicants' instantly claimed amine and antistatic agents are known as antistatic agents as well as slip agents when added to olefinic resin compositions. These specifically claimed antistats are commercially available and conventionally added to olefinic film compositions. While it is acknowledged that the specifically claimed combination of these antistats is not shown, it is nonetheless rendered prima facie obvious from this disclosure given that it is prima facie obvious to combine known ingredients and have them function in an expected manner.

The Fukui and Azuma patents also show polyolefinic resin compositions and also show art recognized slip agents and antistatic agents wherein the specifically claimed antistatic agents are disclosed. See specifically Azuma at column 5 lines 30-33 and 37-40. Applicants argue that this amount is greater than that as instantly claimed and as such there should be a patentable distinction. This is not persuasive. The amounts as

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disclosed at column 5 lines 7, 8 and 43 are seen to expressly overlap the amounts as instantly claimed. As such, the amount limitation relative to the compositional ingredients is overlapped and anticipated.

The Fukui patent also shows the combination of the instantly claimed antistatic agents and slip agents specifically at column 4 lines 20+.

It should be noted that applicants have failed to show or allege that there are any unexpected results due to the specifically claimed combination of ingredients or amounts of ingredients added thereto. A simple allegation of a property limitation which happens to be not disclosed by the prior art does not render the claims patentable. Applicants have failed to show or allege that the compositions of the prior art fail to anticipate or render obvious the instantly claimed property. The Examiner has a reasonable basis for shifting the burden to applicants given the close similarity of the compositions and the related utilities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy, whose telephone number is (703) 308-2449. The examiner can normally be reached on Tuesday through Friday from 7:30 A.M. to 6:00 P.M.

The fax telephone number for this group is (703) 305-3599.

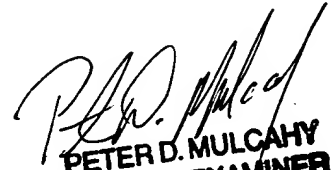
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Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

P. Mulcahy:cdc  
November 14, 2002

  
**PETER D. MULCAHY**  
**PRIMARY EXAMINER**